

§ 15A-266.6. Procedures for obtaining DNA sample for analysis; refusal to provide sample.

(a) Each DNA sample provided pursuant to G.S. 15A-266.4 from persons who are incarcerated shall be obtained at the place of incarceration. DNA samples from persons who are not sentenced to a term of confinement shall be obtained immediately following sentencing. The sentencing court shall order any person not sentenced to a term of confinement, who has not previously provided a DNA sample pursuant to any provision of law requiring a sample and whose DNA record and sample have not been expunged pursuant to law, to report immediately following sentencing to the location designated by the sheriff. If the sample cannot be taken immediately, the sheriff shall inform the court of the date, time, and location at which the sample shall be taken, and the court shall enter that date, time, and location into its order. A copy of the court order indicating the date, time, and location the person is to appear to have a sample taken shall be given to the sheriff. If a person not sentenced to a term of confinement fails to appear immediately following sentencing or at the date, time, and location designated in the court order, the sheriff shall inform the court of the failure to appear and the court may issue an order to show cause pursuant to G.S. 5A-15 and may issue an order for arrest pursuant to G.S. 5A-16. The defendant shall continue to be subject to the court's order to provide a DNA sample until such time as his or her DNA sample is analyzed and a record is successfully entered into the State DNA Database.

(b) If, for any reason, the defendant provides a DNA blood sample instead of a cheek swab, only a correctional health nurse technician, physician, registered professional nurse, licensed practical nurse, laboratory technician, phlebotomist, or other health care worker with phlebotomy training shall draw the DNA blood sample to be submitted for analysis. No civil liability shall attach to any person authorized to draw blood by this section as a result of drawing blood from any person if the blood was drawn according to recognized medical procedures. No person shall be relieved from liability for negligence in obtaining a DNA sample by any method.

(c) The Crime Laboratory shall provide the materials, supplies, and postage prepaid envelopes necessary to obtain a DNA sample from a person required to provide a DNA sample pursuant to this Article and to forward the DNA sample to the appropriate laboratory for DNA analysis and testing. Any DNA sample obtained pursuant to this Article, other than a DNA sample obtained from a person who is incarcerated, shall be taken using the materials and supplies provided by the Crime Laboratory. (1993, c. 401, s. 1; 2003-376, s. 3; 2010-94, s. 7; 2013-360, s. 17.6(f).)